Calendar No. 983

97TH CONGRESS, 2d Session } SENATE { REPORT No. 97-675

DALLAS CREEK

DECEMBER 8 (legislative day, NOVEMBER 30), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2568]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2568) to provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

S. 2568 would provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado River storage project. The effect of the measure would be statutory validation of the existing repayment contract between the United States and the Tri-County Water Conservancy District in Colorado.

BACKGROUND AND NEED

The Dallas Creek project was authorized in 1968 by the Colorado River Basin Project Act (Public Law 90-537). The project is located in west central Colorado and would provide water supplies for municipal and industrial purposes to the towns of Colona, Olathe, Montrose, and Delta. It would also provide a supplemental water supply for over 20,000 acres of irrigated land and 4,200 kilowatts of hydroelectric power. The major project feature is Ridgeway Dam on the Uncompaghre River.

The repayment contract was signed in January 1977. However, final design and specifications were not completed until mid-1979 and the initial construction contract was not let until December 1979. At the time the repayment contract was signed, the estimated municipal and industrial share of the project was $28 million; however, recognizing the potential for cost escalation, the contract provided for repayment of up to $38 million by the Tri-County Water Conservancy District. Article 6(C) of the repayment contract states:

S313-57

> The Contractor hereby agrees to pay all project costs allocated to M&I use, including interest during construction, but not more than $38 million. Said obligation limit is the current estimated project cost allocated to M&I use, based on January 1, 1976, price levels and fiscal year 1976 interest rates increased to cover possible changes in the cost of construction, increases in the applicable rate of interest, changes in project works, or changes in the allocation of project water. The estimated cost based on January 1976 price levels and fiscal year 1976 interest rates is $27,966,000. The allocated M&I repayment obligation is based on furnishing 28,100 acre-feet annually of project M&I water and is to be paid with revenues received from project M&I water users and in accordance with sub-article d. hereof.

The extended delay in construction and related inflation and the redesign of safety-related project features have increased the M&I share of project costs to approximately $76 million. Passage of S. 2568 would limit Tri-County's repayment obligation to the contractual ceiling of $38 million, including interest on construction costs. Without passage of S. 2568, the repayment contract may be found to be in violation of the Water Supply Act of 1958 (72 Stat. 320), which requires full repayment of project construction costs allocated to water supply.

LEGISLATIVE HISTORY

S. 2568 was introduced on May 25, 1981. A hearing was held before the Subcommittee on Water and Power on July 20, 1982, at which time the Administration testified that it does not object to enactment of the bill.

A companion measure, H.R. 4483, was reported favorably without amendment by the House Committee on Interior and Insular Affairs on June 9, 1982, and is pending on the House Calendar.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on December 7, 1982, by vote of a quorum present recommends that the Senate pass S. 2568.

The rollcall vote on reporting the measure was 15 yeas, 1 nay, and 1 present as follows:

YEAS

Mr. McClure	Mr. Warner	Mr. Heinz
Mr. Hatfield	Mr. Humphrey*	Mr. Jackson
Mr. Weicker*	Mr. Murkowski	Mr. Bumpers
Mr. Domenici	Mr. Nickles	Mr. Ford
Mr. Wallop	Mr. East*	Mr. Melcher

NAYS

Mr. Bradley

PRESENT

Mr. Tsongas

*Indicates voted by proxy.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., December 7, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 2568, a bill to provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project, as ordered reported by the Senate Committee on Energy and Natural Resources, December 7, 1982.

This bill reaffirms the provisions of the repayment contract for the Dallas Creek participating project to specify that the portion of costs allocable to municipal and industrial use which exceeds $38 million shall not be reimbursable to the federal government by the Tri-County Water Conservancy District in Colorado. It is not expected that additional receipts would have been realized in the absence of this legislation, because the original repayment contract specifically set $38 million as the maximum reimbursable obligation of the water district. Thus, it is estimated that no budget impact will result from enactment of this legislation.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2568 as reported.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2568.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth Executive agency recommendations relating to S. 2568 are set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 14, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department concerning S. 2568, a bill "To provide for confirmation of the repayment contract of the Dallas Creek participating project of the Upper Colorado storage project."

We do not object to enactment of S. 2568.

S. 2568 would relieve the Tri-County Water Conservancy District of the costs necessary to complete the municipal and industrial features for the Dallas Creek Project in excess of the $38 million repayment obligation now specified in the district's contract with the United States. Thus, if this bill were enacted, the municipal beneficiaries of the project would repay about half the costs allocated to provide them a water supply.

It is this Administration's policy that all costs associated with providing benefits to municipal and industrial water users should be repaid by the direct beneficiaries. However, we also recognize that this is a unique situation.

Because of the failure of the Teton Dam and the subsequent improvement of design criteria, Ridgway Dam, the main storage feature of the Dallas Creek Project, was redesigned for safety reasons. Both the necessary modifications and inflation have substantially increased the estimated cost to complete the project. Unfortunately, the 1977 repayment contract with the district does not contain any provision for escalating or renegotiating the district's repayment obligation beyond $38 million in the event costs exceed repayment coverage. The exising contract simply provides that the United States will construct the Dallas Creek Project and that the Tri-County Water Conservancy District will repay a maximum of $38 million toward the cost of furnishing municipal and industrial water facilities. On the basis of this arrangement, the district's electorate approved the repayment contract and construction was initiated.

The question that arises is whether the United States should incur the consequences of that 1977 contract and carry out the express terms of the contract, or whether the district should be required to absorb extra costs it specifically wished to avoid.

We are required by law to assure that costs such as these are recovered. We have explored other solutions to resolve this problem besides remedial legislation. One possibility is to market a portion of the municipal water supply to a third party such as an industrial customer. Moreover, the provisions of the Water Supply Act of 1958 allow the deferment of a limited portion of the costs allocated to municipal and industrial water storage if there is a reasonable expectation and assurance that the deferred costs eventually will be repaid. However, these solutions could involve a reduction in the available water supply to the district.

In conclusion, we believe it is unfortunate that certain usual contract requirements, which allow for allocation of municipal and industrial cost increases above the original estimates, were deleted from this

contract. The Tri-County Water Conservancy District has pointed out strong equities based on the contract it has executed with the Government, and we believe this is indeed a unique set of circumstances that should not be considered as a precedent for any other water project cost-sharing arrangement. For these reasons we do not object to the enactment of S. 2568.

We want to assure the Committee, however, that the Administration will make every effort to avoid repetition of this situation. We will not sign any future contracts that do not provide for full repayment of the municipal and industrial costs of the projects involved.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

DAVID S. HOUSTON,
Acting Assistant Secretary,
Land and Water Resources.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2568, as reported.

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